

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/787,266
Inventor(s) : Guy Hubert Stephane Sylvain Culeron et al.
Filed : February 26, 2004
Art Unit : 1796
Examiner : Lorna M. Douyon
Docket No. : AA-615M2
Confirmation No. : 5154
Customer No. : 27752
Title : FOAM-GENERATING KIT CONTAINING A
FOAM-GENERATING DISPENSER AND A
COMPOSITION CONTAINING A HIGH
VISCOSITY COMPOSITION

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

This Brief is filed pursuant to the appeal from the decision communicated in the Office Action mailed on December 21, 2009.

A timely Notice of Appeal was filed on March 18, 2010.

REAL PARTY IN INTEREST

The real party in interest is The Procter & Gamble Company of Cincinnati, Ohio.

RELATED APPEALS AND INTERFERENCES

There are no known related appeals, interferences, or judicial proceedings.

STATUS OF CLAIMS

Claims 1-8 and 11-15 are rejected. Claims 9-10 have been previously canceled.

Claims 1-8 and 11-15 are appealed.

A complete copy of the appealed claims is set forth in the Claims Appendix attached herein.

STATUS OF AMENDMENTS

No amendment was filed.

SUMMARY OF CLAIMED SUBJECT MATTER

Claim 1 recites a foam-generating kit comprising: A. a non-aerosol container comprising a foam-generating dispenser for generating a foam, wherein the foam-generating dispenser includes a gas imparting mechanism to form the foam from air via an air injection piston, foam-generating aperture, an impinging surface, a mesh or net, a pump, and a sprayer; and B. a high viscosity dishwashing composition comprising at least one of a microemulsion and a protomicroemulsion, said dishwashing composition having a viscosity of at least about 0.05 Pas, wherein when employed with the high viscosity composition, the foam-generating dispenser generates a foam having a foam to weight ratio of greater than about 2 mL/g and wherein a mesh and/or sponge is located slightly within, and/or at the tip of the nozzle of said dispenser. Support for this claim is found at page 2, lines 18-19, page 4, lines 16-32, page 6, lines 10-13, page 11, and lines 18-22, of the written description.

GROUND S OF REJECTION TO BE REVIEWED ON APPEAL

I. Claims 1-8, and 11-15 are Rejected Under 35 USC §103(a) Over U.S. 5,075,026 (“Loth”) In View Of U.S. 6,612,468 to Pritchett et al. (“Pritchett”), U.S. Patent No. 5,431,345 to Lund et al. (“Lund”), and Together in View of U.S. 5,679,630 to Baeck et al. (“Baeck”); and U.S. 6,114,298 to Petri et al. (“Petri”) In View Of Pritchett.

ARGUMENTS

Rejection Under 35 USC §103(a) Over U.S. 5,075,026 (“Loth”) In View Of U.S. 6,612,468 to Pritchett et al. (“Pritchett”), U.S. Patent No. 5,431,345 to Lund et al. (“Lund”), and Together in View of U.S. 5,679,630 to Baeck et al. (“Baeck”); and U.S. 6,114,298 to Petri et al. (“Petri”) In View Of Pritchett.

Claims 1-8 and 11-15 are rejected under 35 USC §103(a) as being unpatentable over Loth in view of Pritchett. The Office Action asserts that Appellants' previously submitted arguments with respect to the claimed location of their mesh and/or sponge are insufficient to overcome the present rejection. Specifically, the Office Action asserts that the meshes at the top end and bottom end of the tube (11) of Pritchett are located at the top of the foamer unit housing, containing a nozzle. Therefore, the Office Action concludes that the mesh is disclosed as being positioned within the interior passage of the nozzle. Appellants respectfully traverse this rejection.

Pritchett fails to teach or suggest a mesh located slightly within its *nozzle*. The Examiner has erred in her conclusion that the nozzle (12) and axial tube (11), disclosed by Pritchett, are equivalent features. The meshes of Pritchett are located only within the tube (11) and Pritchett fails to otherwise teach or suggest a mesh within the nozzle (12). Therefore, nothing in Pritchett teaches or suggests a mesh located "slightly within" the nozzle according to Appellants' claims.

When Pritchett is considered in combination with the remaining references, Lund and Loth, the various orientations of the mesh do not reconcile the deficiencies of Pritchett. Specifically, Lund and Loth teach various angles and orientations of the mesh material, but neither reference teaches the mesh being located slightly inside the nozzle. Therefore, one of ordinary skill in the art would not be motivated to change the location of the mesh from the tube (11) of Pritchett, and place it within the nozzle (12).

Based on the foregoing, the claims are nonobvious over the combination of Pritchett with the remaining cited references. Accordingly, Appellants respectfully request that the present rejection be withdrawn.

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SUMMARY

In view of the foregoing, allowance of the pending claims is respectfully requested.

Respectfully submitted,
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Date: May 18, 2009
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CLAIMS APPENDIX

1. A foam-generating kit comprising:
 - A. a non-aerosol container comprising a foam-generating dispenser for generating a foam, wherein the foam-generating dispenser includes a gas imparting mechanism to form the foam from air via an air injection piston, foam-generating aperture, an impinging surface, a mesh or net, a pump, and a sprayer; and
 - B. a high viscosity dishwashing composition comprising at least one of a microemulsion and a protomicroemulsion, said dishwashing composition having a viscosity of at least about 0.05 Pas,wherein when employed with the high viscosity composition, the foam-generating dispenser generates a foam having a foam to weight ratio of greater than about 2 mL/g and wherein a mesh and/or sponge is located slightly within, and/or at the tip of the nozzle of said dispenser.
2. The foam-generating kit according to Claim 1, wherein the high viscosity composition has a viscosity of from about 0.05 Pas to about 10 Pas.
3. The foam-generating kit according to Claim 1, wherein the foam-generating dispenser comprises at least three meshes, wherein the high viscosity composition flows through the three meshes in series so as to generate the foam.
4. The foam-generating kit according to Claim 1, wherein the high viscosity composition is a Newtonian Fluid.
5. The foam-generating kit according to Claim 1, wherein the high viscosity composition further comprises an enzyme.
6. The foam-generating kit according to Claim 1, further comprising a shaped applicator.

7. The foam-generating kit according to Claim 1 wherein the high viscosity composition comprises non-visible droplets of oil.
8. The foam-generating kit of Claim 1 wherein the non-aerosol container is a single compartment container.
11. A foam-generating kit according to Claim 1 wherein said high viscosity dishwashing composition is in the form of a microemulsion.
12. A foam-generating kit according to Claim 1 wherein said high viscosity dishwashing composition is in the form of a protomicroemulsion.
13. A foam-generating kit according to Claim 7 wherein said non-visible droplets of oil have a maximum diameter of less than about 100 angstroms as measured by ISO method 7027.
14. The foam-generating kit according to Claim 1 wherein the microemulsion or protomicroemulsion comprises a low water-soluble oil having a solubility in water of less than about 5,000 ppm.
15. The foam-generating kit according to Claim 14 wherein the low water-soluble oil is selected from the group consisting of: terpenes, isoparaffins, and mixtures thereof.

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EVIDENCE APPENDIX

None.

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RELATED PROCEEDINGS APPENDIX

None.